

House Study Bill 73 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL BY
CHAIRPERSON HIGHFILL)

A BILL FOR

1 An Act allowing for a township of certain counties to petition
2 for annexation by another county.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 359.53 Petition and proposition for
2 severance and annexation of a township.

3 1. If a township, located in a county with a population of
4 one hundred thirty thousand or greater, as shown by the most
5 recent federal decennial census, shares a boundary with another
6 county of this state, the eligible electors of such township
7 may petition for annexation by that other county. A petition
8 under this section is valid if signed by eligible electors of
9 the township equal in number to at least twenty percent of the
10 votes cast in the township for the office of president of the
11 United States or governor at the preceding general election.
12 The petition shall include a clear description of the township
13 severance and annexation, the signatures of the petitioners, a
14 statement of their place of residence, including house number
15 and street address, if any, and the date on which they signed
16 the petition.

17 2. Petitions authorized by this section shall be filed
18 with the board of supervisors not later than eighty-two days
19 before the date of the general election. If the petition is
20 found to be valid, the board of supervisors shall, not later
21 than sixty-nine days before the general election, notify the
22 county commissioner of elections to submit the question to the
23 registered voters of the township at the general election.

24 3. A petition shall be examined before it is accepted for
25 filing. If it appears valid on its face it shall be accepted
26 for filing. If it lacks the required number of signatures it
27 shall be returned to the petitioners.

28 4. Petitions which have been accepted for filing are valid
29 unless written objections are filed. Objections must be
30 filed with the county auditor within five working days after
31 the petition was filed. The objection process in section
32 44.7 shall be followed for objections filed pursuant to this
33 section.

34 5. a. At the general election, the proposition shall be
35 submitted to the registered voters of the township in the

1 following form:

2 Shall the township of, county of, state of Iowa,
3 become a part of the county of, state of Iowa?

4 b. The proposition is approved if sixty percent of those
5 voting on the proposition vote in favor of it.

6 6. If a proposition is approved pursuant to this section,
7 the board of supervisors of the severing county shall within
8 thirty days provide by resolution a plan for the transfer and
9 the equitable distribution of assets and equitable distribution
10 and assumption of liabilities of the township as between
11 the severing county and the annexing county to be completed
12 within one year following acceptance of the annexing county's
13 board of supervisors. Immediately following adoption of a
14 resolution under this subsection, the board of supervisors for
15 the severing county shall provide notice of the approval of the
16 proposition and a copy of the resolution containing the plan to
17 the board of supervisors of the annexing county.

18 Sec. 2. NEW SECTION. 359.54 Severance and annexation of a
19 township — process — judicial review.

20 1. Within thirty days of receiving notice pursuant to
21 section 359.52, subsection 6, the board of supervisors of
22 an annexing county shall consider the plan approved by the
23 severing county's board of supervisors and shall accept
24 or decline the plan for the annexation of the township by
25 resolution or present a petition to a court of record under
26 subsection 2.

27 2. a. The board of supervisors of an annexing county may
28 present to a court of record a petition, duly verified, setting
29 forth that the plan by the severing county for the distribution
30 of assets and distribution and assumption of liabilities of the
31 township is inequitable, in whole or in part, and specifying
32 the alleged inequities.

33 b. (1) Upon the presentation of a petition under this
34 subsection, the court may allow a writ of certiorari directed
35 to the board of supervisors of the severing county to review

1 the plan and shall prescribe therein the time within which
2 a response thereto must be made and served upon the county
3 attorney of the annexing county, which shall not be less than
4 ten days and may be extended by the court. The allowance of the
5 writ shall not stay proceedings regarding consideration of a
6 resolution to accept or decline to accept the plan.

7 (2) The response by the board of supervisors of the annexing
8 county shall concisely set forth such facts as may be pertinent
9 and material to respond to the rationale and findings relied
10 upon to prepare the plan.

11 c. If upon the hearing it shall appear to the court that
12 testimony is necessary for the proper disposition of the
13 matter, the court may take evidence or appoint a referee to
14 take such evidence as the court may direct and report the
15 same to the court with the referee's findings of fact and
16 conclusions of law, which shall constitute a part of the
17 proceedings upon which the determination of the court shall be
18 made. The court may affirm, wholly or partly, or may modify
19 the plan brought up for review.

20 d. Within thirty days of a determination being made under
21 paragraph "c", the board of supervisors of the annexing county
22 shall consider the affirmed or modified plan and shall accept
23 or decline to accept the plan by resolution.

24 e. Costs shall not be allowed against the severing county's
25 board of supervisors, unless it shall appear to the court that
26 the severing county's board of supervisors acted with gross
27 negligence or in bad faith or with malice in approving the
28 resolution appealed from.

29 f. All issues in any proceedings under this subsection shall
30 have preference over all other civil actions and proceedings.

31 3. If the board of supervisors of the annexing county
32 approves a resolution accepting the plan to annex a township
33 under this section, the annexation shall be completed as
34 provided for in the annexing county's resolution. The board
35 of supervisors of an annexing county shall file a copy of a

1 resolution accepting the plan to annex the township and the
2 applicable plan with the board of supervisors of the severing
3 county, secretary of state, and department of transportation.
4 The county recorder of an annexing county shall record a copy
5 of any resolution accepting the annexation of a township under
6 this section.

7 Sec. 3. NEW SECTION. **359.55 Annexed townships — federal,**
8 **state, and county electoral provisions.**

9 1. Notwithstanding the transfer of any township to an
10 annexing county pursuant to sections 359.53 and 359.54, a
11 township shall be considered a part of the congressional and
12 legislative districts to which the township was last designated
13 pursuant to sections 40.1, 41.1, and 41.2.

14 2. Notwithstanding section 331.206, subsection 2, following
15 the transfer of a township pursuant to sections 359.53 and
16 359.54, the board of supervisors of a severing county and the
17 board of supervisors of an annexing county shall each select a
18 plan pursuant to section 331.206, subsection 1.

19 Sec. 4. Section 331.209, subsection 1, Code 2017, is amended
20 to read as follows:

21 1. Not later than ninety days after the redistricting of
22 congressional and legislative districts becomes law, or October
23 15 of the year immediately following each year in which the
24 federal decennial census is taken, whichever is later, the
25 temporary county redistricting commission shall divide the
26 county into a number of supervisor districts corresponding
27 to the number of supervisors in the county. However, if the
28 plan is selected pursuant to section 359.55, subsection 2, or
29 section 331.207, the temporary county redistricting commission
30 shall divide the county before February 15 of the next general
31 election year. The supervisor districts shall be drawn, to
32 the extent applicable, in compliance with the redistricting
33 standards provided for senatorial and representative districts
34 in section 42.4, and if a supervisor redistricting plan is
35 challenged in court, the requirement of justifying any variance

1 in excess of one percent contained in section 42.4, subsection
 2 1, paragraph "c" applies to the board. If the temporary county
 3 redistricting commission adopts a supervisor redistricting
 4 plan with a variance in excess of one percent, the board shall
 5 publish the justification for the variance in one or more
 6 official newspapers as provided in chapter 349 within ten
 7 days after the action is taken. If more than one incumbent
 8 supervisor resides in the same supervisor district after the
 9 districts have been redrawn following the federal decennial
 10 census, the terms of office of those supervisors shall expire
 11 on the first day of January that is not a Sunday or a holiday
 12 following the next general election.

13 EXPLANATION

14 The inclusion of this explanation does not constitute agreement with
 15 the explanation's substance by the members of the general assembly.

16 This bill allows a township of one county to petition for
 17 annexation by another county.

18 Under the bill, the eligible electors of a township, located
 19 in a county with a population of 130,000 or more, that shares
 20 a boundary with another county may petition for annexation
 21 by that other county. A petition is valid if signed by 20
 22 percent of the eligible electors of the township that cast
 23 votes in the township for the office of president of the United
 24 States or governor at the preceding general election. A
 25 petition for such an annexation must be filed with the board
 26 of supervisors not later than 82 days before the general
 27 election and the board of supervisors is required to notify
 28 the county commissioner of elections to submit the question to
 29 the registered voters of the township at the general election.
 30 Under the bill, petitions which have been accepted for filing
 31 are valid unless written objections are filed as provided for
 32 under the bill.

33 The bill provides for the form of a proposition to be
 34 submitted to the registered voters of the township and
 35 provides that such a proposition is approved if 60 percent

1 of those voting on the proposition vote in favor of it.
2 If a proposition is approved, the board of supervisors of
3 the severing county is required to provide by resolution a
4 one-year plan for the equitable distribution of assets and
5 equitable distribution and assumption of liabilities of the
6 township as between the severing county and the annexing
7 county. Immediately following adoption of a plan, the board
8 of supervisors for the severing county is required to provide
9 notice of the approval of the proposition and a copy of the
10 plan to the board of supervisors of the annexing county.

11 Within 30 days of receiving notice from a severing county,
12 the board of supervisors of an annexing county is required
13 to consider the plan approved by the severing county's board
14 of supervisors and accept or decline to accept the plan for
15 annexation of the township by resolution or present a petition
16 to a court of record for judicial review.

17 Under the bill, the board of supervisors of an annexing
18 county may present a petition to a court of record, setting
19 forth that the resolution and plan by the severing county for
20 the distribution of assets and distribution and assumption
21 of liabilities of the township is inequitable, in whole or
22 in part, and specifying the alleged inequities. The bill
23 establishes procedures for the judicial review and allows
24 the court to affirm, wholly or partly, or modify the plan
25 brought up for review. Within 30 days following a judicial
26 determination, the board of supervisors of the annexing county
27 is required to consider the affirmed or modified plan and
28 accept or decline to accept the plan for annexation of the
29 township by resolution.

30 The bill requires that an annexation be completed as
31 provided for in the resolution approved by the annexing county.
32 The board of supervisors of an annexing county is required
33 to file a copy of a resolution accepting the transfer of a
34 township and the applicable plan with the board of supervisors
35 of the severing county, secretary of state, and department of

1 transportation. The county recorder of an annexing county is
2 also required to record a copy of any resolution accepting the
3 transfer of a township and the applicable plan.

4 Under the bill, following the transfer of a township,
5 the boards of supervisors of severing and annexing counties
6 are required to select district representation plans for the
7 county. If a board of supervisors selects certain plans, the
8 temporary county redistricting commission is required to divide
9 that county by February 15 of the next general election year.
10 Under the bill, a township that is annexed by another county is
11 required to remain within the township's current congressional
12 and legislative districts.